

United States
Circuit Court of Appeals

For the Ninth Circuit.

In the Matter of
ADRIEN BLANQUIE, doing business as CITY
OF PARIS DYEING & CLEANING
WORKS,

Bankrupt.

JOHN O. ENGLAND, Trustee in Bankruptcy of
the Estate of ADRIEN BLANQUIE, doing
business as CITY OF PARIS DYEING &
CLEANING WORKS,

Appellant,

vs.

M. DUCASSE,

Appellee.

Transcript of Record

Upon Appeal from the District Court of the United
States for the Northern District of California,
Southern Division.

FILED

SEP 5 - 1939

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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Southern Division of the United States District
Court Northern District of California.

No. 30513 L

In Bankruptcy.

In the Matter of

ADRIEN BLANQUIE, doing business as CITY
OF PARIS DYEING & CLEANING
WORKS,

Bankrupt.

ORDER OF ADJUDICATION

At San Francisco, in said District, on the 29th day of July, 1938, before the said Court in Bankruptcy, the petition of Adrien Blanquie, doing business as City of Paris Dyeing & Cleaning Works that he be adjudged bankrupt within the true intent and meaning of the Acts of Congress relating to bankruptcy, having been heard and duly considered, the said Adrien Blanquie, doing business as City of Paris Dyeing & Cleaning Works is hereby declared and adjudged bankrupt accordingly.

It is thereupon ordered that said matter be referred to Burton J. Wyman one of the referees in bankruptcy of this Court, to take such further proceedings therein as are required by said Acts; and that the said Adrien Blanquie, etc. shall attend before said referee on the 8th day of August, 1938, at his office in San Francisco, California, at 10

o'clock forenoon, and thenceforth shall submit to such orders as may be made by said referee or by this Court relating to said matter in bankruptcy.

It is further ordered that all notices required to be published in the above-entitled matter, and all orders which the Court may direct to be published, be inserted in "The Recorder", a newspaper published in the county of San Francisco, State of California, within the territorial district of this Court, and in the County within which said bankrupt resides.

Dated July 29, 1938.

MICHAEL J. ROCHE,
District Judge. [1*]

[Indorsed]: Filed Jul 29, 1938, 3:11 P. M. Walter B. Maling, Clerk.

I, Walter B. Maling, Clerk of said District Court, do hereby certify the foregoing to be a full, true, and correct copy of the Order for Adjudication, Reference, etc., in the Matter of Adrien Blanquie, etc. Bankrupt No. 30513 L in Bankruptcy, now remaining on file and of record in my office.

Attest my hand and seal of said District Court, this 18th day of May, 1939.

WALTER B. MALING,

Clerk.

By.....

Deputy Clerk.

[Endorsed]: Filed July 29, 1938.

*Page numbering appearing at the foot of page of original certified Transcript of Record.

[Title of District Court and Cause.]

PETITION TO RECLAIM PROPERTY SOLD
UNDER CONDITIONAL SALES CONTRACT

To The District Court of the United States for the
Northern District of California:

“The petition of M. Ducasse, doing business as
West Coast Laundry Machinery Co., respectfully
shows to this court:

I.

“That he is engaged in the business of selling
laundry machinery at San Francisco, California.

II.

“That heretofore, on or about July 29, 1938,
a voluntary petition in bankruptcy was filed in
this court by said bankrupt praying that said
bankrupt be adjudged a bankrupt; that on July
30, 1938, John O. England, Esq., was duly appointed
Receiver of all the assets and effects of said al-
leged bankrupt and duly qualified and is now act-
ing as such Receiver.

III.

“That on July 30, 1938, an order of adjudica-
tion in bankruptcy herein was entered.

IV.

“That on the 29th day of July, 1937, said bank-
rupt entered into a conditional contract of sale at
the City and County of San Francisco, State of
California, with said M. Ducasse, doing business

as West Coast Laundry Machinery Co., wherein and whereby certain machinery and equipment was sold to said bankrupt, the title to said machinery and equipment by the terms of said conditional contract of sale, remaining in said seller, M. Ducasse, until the full purchase price thereof was paid; that annexed hereto and marked Exhibit 'A', and made a part of this petition, [2] is a copy of said conditional contract of sale, together with a list of all the machinery and equipment embraced in the terms of said conditional contract of sale.

V.

“That the total amount of the purchase price of said machinery and materials, together with the cost of installing the same, was \$8724.94; that there has been paid on account of said sum the sum of \$6451.11; that there is a balance due and owing thereon in the sum of \$2273.83.

VI.

“That said M. Ducasse has demanded of said bankrupt and of said Receiver the payment of said balance of \$2273.83, or the return of said machinery and materials, but the said bankrupt and the said Receiver have refused to make said payment or return the said machinery and materials.

VII.

“That said petitioner alleges upon information and belief that said machinery and materials are now in the possession of said Receiver.

“Wherefore, Petitioner prays for an order directing the said Receiver to forthwith deliver to petitioner the said machinery and materials in his possession covered by the said conditional contract of sale.

“Dated: August, 1938.

M. DUCASSE,
Petitioner.

STANLEY JACKSON
WERNER OLDS
BERTRAND A. BLEY
Attorneys for Petitioner.

‘EXHIBIT A’

“CONDITIONAL CONTRACT OF SALE

“This Contract, entered into in duplicate this 29th day of July, 1937, by and between West Coast Laundry Machinery Co. of San Francisco, California (Seller) and City of Paris Cleaning Works (Purchaser) of San Francisco, (City) Calif. (State) [3]

“Witnesseth, Seller agrees to sell, and Purchaser agrees to buy the following described chattel, delivery and acceptance of which in good condition is hereby acknowledged by Purchaser, to-wit:

“Machinery and materials furnished and materials used in connection with installation of same as per attached list. \$8724.94

“Buyer to keep the above machinery and equipment insured against loss by fire loss, if any, payable to seller as their interest may

appear. Buyer not to remove above machinery and equipment until same is fully paid for from their plant at the above address without the consent of seller.

for the following payments in lawful money of the United States: \$6395.66 upon the signing of this contract, receipt of which is hereby acknowledged, and the further sum of \$2398.58 payable as follows: six payments of \$50. per month, then 17 payments of \$75.00 per month and one payment of \$823.58

payable at office of Seller or of assignee of Seller. As long as purchaser's obligations under this contract are not in default, the unpaid balance of purchase price hereunder shall bear interest from date hereof at the rate of 7 per cent per annum.

“It is hereby stipulated and agreed by and between Seller and Purchaser that the following are the conditions under which said chattel is to be sold and purchased:

“1. Title and ownership of said chattel shall remain in Seller, his successors or assigns until all sums which may become due or owing under any clause of this contract shall have been fully paid in cash and thereupon the title and ownership shall pass to Purchaser.

“2. Should Purchaser fail to make any monthly payment above specified when the same is due, or fail to do anything else required hereunder, then

the entire unpaid balance of purchaser price shall at Seller's option, become immediately due and payable and shall bear interest thereafter at the highest lawful rate, and Purchaser agrees to make full payment of such balance, or to return said chattel together with any things added thereto, to Seller on demand and without legal proces. If Seller repossesses said chattel, then Seller may retain all payments previously made as compensation for use of said chattel, and Seller may, at his option, sell said chattel at public or private sale, with or without notice and credit the net proceeds, after expenses, on the amounts unpaid hereunder. If the net proceeds of such sale are insufficient to cover the amount unpaid hereunder, Purchaser agrees to pay any deficiency on demand.

“3. Purchaser agrees to pay all costs of collecting any amount or enforcing any of Seller's rights under this contract, including, [4] without limiting the generality of the foregoing, a reasonable attorney's fee, if this contract is placed in the hands of an attorney by Seller, no matter whether suit is brought or not, and also including the cost to Seller of the time and services of any of his employees in making collection.

“4. Purchaser agrees to pay promptly when due all licenses, taxes and assessments which may be levied upon said chattel and to keep the same at all times free and clear of liens and encumbrances.

“5. Purchaser agrees to insure said chattel against loss by fire in favor of Seller, his succes-

sors or assigns; to take good care of said chattel, and not to remove the same from the premises described below, or to make any structural change in or addition to said chattel without first obtaining consent in writing from Seller, or his successors or assigns. Damage to or destruction of said chattel, however caused, shall not relieve Purchaser of liability for the full price thereof, or of any of the liability hereunder, said chattel shall not become part of the realty.

“6. It is agreed that no other agreement or guaranty, oral or written, express or implied, shall limit or qualify the terms of this contract, and that no warranty of said chattel has been made unless herein expressed. This agreement shall not be binding on Seller until his acceptance is signed hereon.

“7. Purchaser agrees that Seller may at any time assign this agreement or any right thereunder, and that all terms hereinabove set forth for Seller’s benefit shall inure to the benefit and operate in favor of his successors and assigns. Purchaser hereby waives as against such successors and assigns all right of recoupment, set-off and counterclaim, which Purchaser has, or ever might have, against Seller, and Purchaser further agrees that Seller’s successors or assigns shall be under no responsibility or obligation for the performance by Seller of any term or condition hereof.

“8. Time is of the essence of this agreement and every part thereof.

1—Medium Steam Puffer with Stand.....		11.00
1—750 Gallon Tank with Cover & Joists—set up.....		47.00
1—1000 Gallon Tank with Cover & Joists “ “.....		54.00
1—1 H.P. 3 Phase Motor with Pulley.....		45.00
1—Radiator		7.00
1—Radiator		4.52
4—4 $\frac{1}{4}$ x5 $\frac{1}{4}$ Steam Traps.....	9.25	37.00
3—6 $\frac{1}{4}$ x5 $\frac{1}{4}$ “ “	15.00	45.00
1—10x6 $\frac{1}{4}$ “ “		20.75
20 Ft. 17" Galvanized Leader Pipe.....	1.00	20.00
3—17" “ “ Elbows.....	6.50	19.50
Pipe & Return Bends for Coil in Dining Room.....		7.35
96 ft. 1 - 11/16" Shafting.....	.50	48.00
15—1 - 11/16"—18 to 20 Drop Hangers.....	7.75	116.25
10—1 - 11/16" Collars .....	.75	7.50
2—1 - 11/16 Compression Flange Couplings.....	8.00	16.00
3—1 - 11/16 Ring Oiling Bearings.....	5.75	17.25
1—New 4x6" Steel Pulley.....		3.10
3— “ 10x10 “ “	5.90	17.70
2— “ 11x4" “ “	4.20	8.40
2— “ 14x4" “ “	5.20	10.40
1— “ 16x8" “ “		8.25
1— “ 16x12" “ “		10.50
1— “ 26x5" “ “	15.90	31.80
2—Used 10x10 “ “	3.00	6.00
1— “ 20x5" “ “		5.00
1—New 6x12" Wood “		5.00
1—Used 36x4" “ “		6.00
		<hr/>
Forwarded.....		\$6615.77
	Brought Forward.....	6615.77
40 ft. 1 $\frac{1}{2}$ " Leather Belting.....		12.95
160 “ 2" “ “		69.15
62 “ 3" “ “		40.20
87 “ 4" “ “		75.15
3 Boxes Belt Hooks.....		3.00
3 Brass Cable Supports.....	@2.50	7.50
78 Ft. 3/16" Galvanized Wire Cable.....		3.12
2 Pr. 6" Extra Heavy Hinges for Ironing Boards.....		.70
1—5" I Beam 50" Long.....		2.50

1— $\frac{3}{8}$ x2 $\frac{1}{2}$ " Angle—45" long.....		1.25
31— $\frac{1}{2}$ " Globe Valves.....		49.60
2— $\frac{3}{4}$ " " "	2.20	4.40
9—1" " "	2.80	25.20
4— $\frac{1}{2}$ " " "	5.50	22.00
1—2" " "		8.75
8— $\frac{1}{2}$ " Check "	1.60	12.80
3— $\frac{3}{4}$ " " "	1.80	5.40
1—1" Gate Valve—Quick Opening.....		2.75
2— $\frac{1}{2}$ " " " " "	5.50	11.00
1— $\frac{1}{2}$ " " " " "		4.50
22—1" Round Brass Comp. Hose Bibbs.....	2.00	44.00
5— $\frac{1}{2}$ " Noiseless Water Heaters.....	2.00	10.00
1— $\frac{3}{4}$ " " " "		2.50
2—2" Steam Cocks	6.00	12.00
2—1" Improved Ball Cocks.....	2.90	5.80
2—8" Copper Balls.....	1.75	3.50
2—15" Galvanized Stems.....	.30	.60
13— $\frac{3}{4}$ " " Floor Flanges.....	.35	4.55
2—2" " " " .....	.80	1.60
5 ft. $\frac{1}{8}$ " Black Pipe.....		.25
30" $\frac{1}{4}$ " " "		1.65
480 Ft. $\frac{1}{2}$ " " "		27.95
125 " $\frac{3}{4}$ " " "		9.10
175 " 1" " "		17.95
247 " $\frac{1}{2}$ " " "		40.90
43 " 2" " "		10.00
256 " $\frac{1}{2}$ " Galv. "		18.90
387 " $\frac{3}{4}$ " " "		34.60
91 " 1" " "		11.65
7 " $\frac{1}{4}$ " " "		1.25
226 " $\frac{1}{2}$ " " "		46.80
133 " 2" " "		37.10
2 " 1" Brass "		2.00

Forwarded.....7322.34

Brought Forward.....7322.34

50 ft. Perforated Pipe Strap.....		1.50
1 $\frac{1}{2}$ # Assorted " " .....		.25
5# Pipe Cement.....		2.25

1—1/2"	Black Y	.....	.15
2—1 1/2"	" "	.....	1.75
9—1/4"	Black Elbows	.....	.40
2—3/8"	" "	.....	.15
139—1/2"	" "	.....	11.80
28—3/4"	" "	.....	2.50
35—1"	" "	.....	4.45
23—1 1/2"	" "	.....	6.85
4—2"	" "	.....	1.95
2—1/4"	" Street Elbows	.....	.10
3—1/4—45°	Blk "	.....	.15
1—1/2 45°	" "	.....	.10
1—2" 45°	" "	.....	.85
1—1-3 way	" "	.....	.45
2—1 1/2" 3 way	" "	.....	2.10
29—1/2"	Galv.	.....	3.40
24—3/4"	" "	.....	3.10
21—1"	" "	.....	3.85
28—1 1/2"	" "	.....	12.50
14—2"	" "	.....	9.90
2—3/4 3 way	" "	.....	.90
2—3/4 45°	" "	.....	.40
4—1 1/4 45°	" "	.....	1.95
1—1 1/2" 45°	" "	.....	.65
1—2 45°	" "	.....	1.10
1—1 1/4"	" Street "	.....	.40
39—1/2"	Black Tees	.....	4.65
7—3/4"	" "	.....	.85
9—1"	" "	.....	1.60
9—1 1/2"	" "	.....	3.65
2—2"	" "	.....	1.35
12—1/2"	" Reducing Tees	.....	1.80
6—1"	" "	.....	2.05
2—2"	" "	.....	1.70
4—3/4"	Galv.	.....	.70
10—1"	" "	.....	2.55
2—1 1/2"	" "	.....	5.25
6—2"	" "	.....	5.60

Forwarded.....7429.99

	Brought Forward.....	7429.99
7— $\frac{3}{4}$ "	Galvanized Reducing Tees.....	2.10
10— $1\frac{1}{2}$ "	“ “ “ “	7.35
5— $\frac{3}{4}$ "	4 way “ “ “	2.90
1— $1\frac{1}{4}$ "	Black Reducers.....	.55
2—2"	“ “ “	1.50
2— $1\frac{1}{2}$ "	Galvanized “ .....	.85
1— $1\frac{1}{2}$ "	Black Cross.....	.70
10—1"	Galvanized Couplins.....	2.40
$6\frac{1}{8}$ to $\frac{3}{8}$ "	close & short Black Nipples.....	.15
30— $\frac{1}{4}$ 2 to $3\frac{1}{2}$ "	Black Nipples.....	1.15
2— $\frac{1}{4}$ x4"	“ “ .....	.10
1— $\frac{3}{8}$ x4"	“ “ .....	.05
55 $\frac{1}{2}$ "	Close & Short “ “	1.50
111 $\frac{1}{2}$ 2 to $3\frac{1}{2}$ "	“ “	4.20
13 $\frac{1}{2}$ x4	“ “ .....	.60
17 $\frac{1}{2}$ x4 $\frac{1}{2}$ & 5	“ “ .....	.90
15 $\frac{3}{4}$	close & short “ “ .....	.50
5— $\frac{3}{4}$	close & short “ “ .....	.35
12— $\frac{3}{4}$ 2 $\frac{1}{2}$ to 4	“ “ .....	.60
8 1"	Close & short “ “ .....	.35
1— $\frac{3}{4}$ "x6	“ “ .....	.10
14 1 2 $\frac{1}{2}$ to 4"	“ “	1.00
3—1x6"	“ “ .....	.30
1—1x7"	“ “ .....	.15
2—1x8"	“ “ .....	.35
5— $1\frac{1}{2}$	close & short “ “ .....	.35
4— $1\frac{1}{2}$ 3 to 4 $\frac{1}{2}$"	“ “ .....	.45
2—2"	Close & short “ “ .....	.20
2—2 3 to 4 $\frac{1}{2}$"	“ “ .....	.30
2—2x6"	“ “ .....	.40
4— $\frac{1}{2}$ 2 to $3\frac{1}{2}$ "	Galv. “ .....	.20
2— $\frac{1}{2}$ x4"	“ .....	.15
4— $\frac{3}{4}$	close & short Galv. “ .....	.15
8— $\frac{3}{4}$ 2 $\frac{1}{2}$ to 4	“ “ .....	.50
3—1	Close & short “ “ .....	.20
2—1 2 $\frac{1}{2}$ to 4	“ “ .....	.15
9— $15\frac{1}{2}$ & 6	“ “	1.00
6—1x7	“ “	1.20
13— $1\frac{1}{4}$ & $1\frac{1}{2}$	close “ “	1.10
9— $1\frac{1}{2}$ 3 to 4 $\frac{1}{2}$	“ “	1.30
4—2" 3 to 4 $\frac{1}{2}$"	“ “ .....	.80

Forwarded.....7469.14

	Brought Forward.....	7469.14
14— $\frac{1}{2}$ "	Black Bushings.....	.55
11— $\frac{3}{4}$"	“ “ .....	.60
29—1"	“ “	1.80
17— $1\frac{1}{2}$ "	“ “	1.60
1—2"	“ “ .....	.15
2—3"	“ “ .....	.60
2— $\frac{3}{8}$ "	Galv. “ .....	.15
2—1"	“ “ .....	.25
1— $1\frac{1}{2}$"	“ “ .....	.20
8—2"	“ “	2.35
6— $\frac{1}{2}$ " & $\frac{3}{4}$ "	Black Plugs.....	.15
2—1"	“ “ .....	.10
2—2"	“ “ .....	.25
1— $\frac{1}{8}$ "	Com. “ Union.....	.10
17— $\frac{1}{4}$ "	Ground Joint Black Unions.....	2.40
43— $\frac{1}{2}$ "	“ “ “ “	10.20
12— $\frac{3}{4}$ "	“ “ “ “	3.40
6—1"	“ “ “ “	2.25
1— $1\frac{1}{2}$"	“ “ “ “ .....	.75
1—2"	“ “ “ “ .....	.95
1— $1\frac{1}{2}$ "	Galvanized “ .....	.35
2— $1\frac{1}{2}$ "	“ “ “	2.25
2—2"	“ “ “	2.85
1	Sheet 30 Ga. 30x120" Galv. Sheet Iron.....	1.50
9	Anchor Bolts	2.25
64	Assorted $\frac{3}{8}$ to $\frac{5}{8}$ " Carriage & Machine Bolts.....	4.10
96	“ $\frac{1}{4}$ to $\frac{5}{8}$ " Lag, Cap. & Machine Screws.....	2.20
8— $\frac{3}{8}$ x $2\frac{1}{2}$ "	Brass Bolts.....	1.40
34— $\frac{3}{8}$, $\frac{1}{2}$ & $\frac{5}{8}$	Expansion Shields.....	3.80
5— $\frac{1}{2}$ & $\frac{5}{8}$	Cast Iron Washers.....	.60
5 $\frac{1}{2}$ #	Assorted Cut “ “ .....	.55
6#	“ Nails .....	.35
14	Linear ft. 1x4 Pine Lumber.....	.50
12	“ “ 2x2 “ “ .....	.40
32	“ “ 2x4 “ “	2.10
6 $\frac{1}{2}$	“ “ 2x6 “ “ .....	.65
37 $\frac{1}{2}$	“ “ 2x12 “ “	7.50
12	“ “ 3x6 “ “	1.80
42	“ “ $\frac{1}{4}$ round Pine Lumber.....	.75

13 Linear ft. 2 round Maple Lumber.....	1.30
25 " " 2x4 Ro. Redwood Lumber.....	1.00
32 " " 3x4 " " " ".....	1.90
Aluminum & Gray Enamel Paint.....	3.75
Tar & Plaster Paris.....	.85
Cement & Sand.....	2.50
1 New 26x5" Steel Pulley.....	10.50
	7555.69

State of California,
 City and County of San Francisco—ss.

M. Ducasse, being first duly sworn, deposes and says:

That he is the petitioner named in the foregoing Petition to Reclaim property sold under Conditional Sale Contract; that he has read said Petition and knows the contents thereof and that the same is true of his own knowledge, except as to the matters therein stated on information or belief, and as to those matters, that he believes it to be true.

M. DUCASSE

Subscribed and Sworn to before me this 19th day of August, 1938.

[Seal] MARK E. LEVY,
 Notary Public in and for the City and County of
 San Francisco, State of California.

[Endorsed]: Filed Aug. 20, 1938. [6]

[Title of District Court and Cause.]

Wednesday, September 14, 1938.

HEARING ON PETITION IN RECLAMATION
(TESTIMONY)

APPEARANCES:

J. M. Connors, Esq., Attorney for Trustee;
A. B. Rothschild, Esq., Attorney for Bankrupt;
Werner Olds, Esq., Attorney for Petitioner in
Reclamation;
Albert Picard, Esq., Attorney for Chattel Mort-
gage Holder. [8]

Mr. Connors: If Your Honor please, in this matter a petition in reclamation was filed, one by the holder of the chattel mortgage, and another by the conditional sales contract vendor. I believe it would be best to proceed with the hearing on the petition in reclamation by the conditional sales contract vendor first.

Mr. Olds: Mr. Connors, I think we can stipulate to most of the facts.

Mr. Connors: We may need the books.

Mr. Olds: I would like to introduce into evidence, if the Court please, conditional sales contract executed by the City of Paris Cleaning and Dyeing Works, the bankrupt in this matter, signed by A. Blanquie, the owner, dated July 29, 1937. Annexed to it is an inventory of the property covered by the conditional sales contract. Is it stipulated that is Mr. Blanquie's signature? Is that correct?

Mr. Connors: Before that is introduced, Mr. Olds, I think some testimony should be taken with reference to the making of a new contract in lieu of the contract dated September 14, 1928.

Mr. Olds: I am making my prima facie case. You can bring that out. That is the last contract entered into.

Mr. Connors: I don't want it introduced as an exhibit if an objection can be made to it.

The Referee: Why not make the objection?

Mr. Connors: Well, I want to examine Mr. Ducasse.

Mr. Olds: He is here to be examined so that can be introduced in evidence.

Mr. Connors: All right.

The Referee: You don't object?

Mr. Connors: I would like the ruling to be deferred until [9] that is connected up with an earlier contract.

M. DUCASSE,

Called for the Petitioner,

Sworn.

Mr. Olds: Q. Mr. Ducasse, you are the proprietor of the West Coast Laundry Machinery Company, filing the petition of reclamation herein?

A. Yes.

Q. And the City of Paris Cleaning and Dyeing Works is indebted to you under the contract which has been introduced in evidence? A. Yes.

Q. What is the balance due under that contract?

Mr. Picard: Objected to as calling for a conclusion.

Mr. Olds: Q. Do you know what is due under the contract?

The Witness: A. You mean now?

Q. Do you know what balance is due now under the contract?

A. Between twenty-one and twenty-two hundred dollars.

Mr. Picard: I move that the answer be stricken as not responsive. All his answer is is yes or no.

Mr. Olds: Q. Answer this question: Do you know what the balance is now due you by the City of Paris Cleaning and Dyeing Company?

A. I am not sure exactly, close to \$2200.

Mr. Picard: I move that the last part of it go out.

The Referee: It may go out.

Mr. Olds: Have you a ledger sheet showing the balance due?

The Witness: A. Yes.

Q. Will you take it out? I want to see the ledger sheet.

Mr. Olds: All right. I will withdraw Mr. Ducasse at this time and put the bookkeeper on the stand.

(Witness excused). [10]

O. M. GRIMM,

Called for the Petitioner,

Sworn.

Mr. Olds: Q. Mr. Grimm, you are the bookkeeper for the West Coast Laundry Machinery Company?

A. The office manager.

(Testimony of O. M. Grimm.)

Q. As such do you keep the books of the West Coast Laundry Machinery Company?

A. Yes, sir.

Q. Have you got the ledger sheet there showing the account of the City of Paris Cleaning and Dyeing Works? A. Yes.

Q. Tell me from that then, from that book, of your own knowledge, what is due you from that account?

Mr. Picard: Before that is answered, I would like an opportunity to examine the books.

The Referee: Yes.

Mr. Olds: All right, we will show it to you.

Mr. Olds: Q. Showing you these ledger sheets, Mr. Grimm, I ask you, from these ledger sheets and from your own knowledge, what is the balance due by the City of Paris Cleaning and Dyeing Works at this time?

Mr. Picard: To which I object upon the ground that the ledger sheets themselves are the best evidence of their own contents. It is plainly written and all you have to do is offer it in evidence.

Mr. Olds: I don't want to offer it in evidence. He is the bookkeeper, if the Court please. I am asking from the ledger sheets and from his own knowledge. I will offer them in evidence when I am ready.

Mr. Picard: The objection is that the ledger sheets are the best evidence.

Mr. Olds: The ledger sheets are hearsay and the bookkeeper's [11] evidence is the best evidence.

The Referee: Just the reverse.

(Testimony of O. M. Grimm.)

Mr. Olds: In that case, the law has changed since I studied law.

The Referee: Well, it was the rule when I studied. I think that has been more years ago than when you did.

Mr. Picard: I submit the objection.

The Referee: Sustained.

Mr. Olds: I will introduce the ledger sheets in evidence, if the Court please.

The Referee: Very well. Let me have them;

CLAIMANT'S EXHIBIT NO. 1

[Printer's Note: Figures appearing in parentheses under the heading "Credits" show subtotals in pencil on original exhibit.]

"A"

Claimants No. 1

13/14/38

Gross Amount \$8724.94 Date of Contract 9/1928 Terms

Net Amount 8724.94

Trade In

BJW/R

DATE	FOLIO	CHARGES Principal Interest	CREDITS Principal Interest	Balance
1938				
Jan. 1				623.60
Mar. 22	C9.....		150.90	472.70
" 31	J4.....		8.69	464.01
May 17	J8.....		13.22	
			(172.81)	
" 31	"10.....		16.40	434.39
			(189.21)	
July 31	"20.....		6.82	427.57
			(196.03)	

Amount of Ins.—

Policy No.—

Ex. Date—

Address—20th & Florida Sts., S. F.

Name—City of Paris Clg. & Dyeing Wks.

(Testimony of O. M. Grimm.)

Account No. Contract # 409
 Name—City of Paris Dry Clg. Wks.
 Address—20th & Florida Sts.
 City

Sheet No.....
 Terms
 Rating
 Credit Limit

Date	Items	Folio	Credits	Balance	Items	Folio	Credits	Balance	Date
Dec. 31, 1928	Balance	C107	200.00	5000.00	1929				Sept. 11
		"109	100.00	4800.00					Oct. 9
		"112	100.00	4700.00					Nov. 13
			4600.00	4600.00	Balance				Dec. 31
Jan. 1, 1930		C116	100.00	4600.00	1930				Jan. 16
		"118	100.00	4500.00					Feb. 14
		"126	100.00	4400.00					June 9
		"130	100.00	4300.00					Aug. 14
		"132	100.00						Sept. 16
		"136	100.00	4000.00					Nov. 6
			(600.00)						
			4000.00		Balance				Dec. 31
Jan. 1, 1931		C149	100.00	4000.00	1931				May 28
		"152	100.00						July 1
		"154	100.00						Aug. 11
		"157	100.00	3600.00					Sept. 17
		"159	100.00						Oct. 17
		"162	100.00						Nov. 18
		"163	100.00						Dec. 15
			3300.00		Balance				Dec. 31

(Testimony of O. M. Grimm.)

Mr. Olds: In that case, the law has changed since I studied law.

The Referee: Well, it was the rule when I studied. I think that has been more years ago than when you did.

Mr. Picard: I submit the objection.

The Referee: Sustained.

Mr. Olds: I will introduce the ledger sheets in evidence, if the Court please.

The Referee: Very well. Let me have them;

CLAIMANT'S EXHIBIT NO. 1

[Printer's Note: Figures appearing in parentheses under the heading "Credits" show subtotals in pencil on original exhibit.]

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Claimants No. 1

13/14/38

Gross Amount \$8724.94 Date of Contract 9/1928 Terms

Net Amount 8724.94

Trade In

BJW/R

DATE	FOLIO	CHARGES	CREDITS	Balance
		Principal Interest	Principal Interest	
1938		This exhibit commences at page 21		
Jan. 1	.....	The portion set forth on this page		
Mar. 22	C9.....	should follow after the portion set		
" 31	J4.....	forth on page 23.		
May 17	J8.....		13.22	
			(172.81)	
" 31	"10.....		16.40	434.39
			(189.21)	
July 31	"20.....		6.82	427.57
			(196.03)	

Amount of Ins.—

Policy No.—

Ex. Date—

Address—20th & Florida Sts., S. F.

Name—City of Paris Clg. & Dyeing Wks.

(Testimony of O. M. Grimm.)

Account No. Contract # 409
 Name—City of Paris Dry Clg. Wks.
 Address—20th & Florida Sts.
 City

Sheet No.....
 Terms
 Rating
 Credit Limit

Date	Items	Folio	Debits	Balance	Credits	Folio	Items	Date
Dec. 31, 1928	Balance			5000.00	200.00	C107		Sept. 11 1929
				4800.00	100.00	"109		Oct. 9
				4700.00				
				4600.00	100.00	"112		Nov. 13
					4600.00		Balance	Dec. 31
Jan. 1, 1930				4600.00	100.00	C116		Jan. 16 1930
				4500.00	100.00	"118		Feb. 14
				4400.00				
				4300.00	100.00	"126		June 9
					100.00	"130		Aug. 14
					100.00	"132		Sept. 16
				4000.00	100.00	"136		Nov. 6
					(600.00)			
					4000.00		Balance	Dec. 31
Jan. 1, 1931				4000.00	100.00	C149		May 28 1931
					100.00	"152		July 1
					100.00	"154		Aug. 11
				3600.00	100.00	"157		Sept. 17
					100.00	"159		Oct. 17
					100.00	"162		Nov. 18
					100.00	"163		Dec. 15
					3300.00		Balance	Dec. 31

(Testimony of O. M. Grimm.)

Date	Items	Folio	Debits	Balance	Credits	Folio	Items	Date
Jan. 1, 1932				3300.00	100.00	C 2		1932 Jan. 23
				3200	100.00	" 4		Feb. 18
				3100				
				3000.00	100.00	" 6		Mar. 22
				2900.00	100.00	" 8		Apr. 21
				2800	100.00	" 12		June 20
					(500.00)			
				2750.00	50.00	" 18		Sept. 20
					(550.00)			
				2750.00	2750.00			Balance Dec. 31
Jan. 1, 1933				2750.00	50.00	C 4		1934 Feb. 21
				2700	50.00	" 9		Apr. 20
				2650				
				2600.00	50.00	" 12		June 6
					(150.00)			
				2600.00	25.00	C21		1934 Sept. 19
				2575				
					1525.00	J14-1		" Dec. 31
					(1550.00)			
				1050.00	1050.00			Balance Dec. 31

(REVERSE SIDE)
(Heading)

"B

Claimant No. 1
13/14/38 BJW
R

(Testimony of O. M. Grimm.)

Jan. 1, 1927	Balance		100.50	Jan. 7, 1927	C44	100.50
Feb. 17, 1927	421C	88	2.50	Mar. 11	"48	2.50
Mar. 8	463"	123	102.50	Apr. 7	"50	102.50
June 24	753"	311	16.75	July 11	"56	16.75
Jan. 11, 1928	264D	640	8.75			
" 13	F.G.	541	1.50			
" 18	274D	650	74.60	Feb. 10, 1928	C69A	84.85
Sept. 1	877D	1057	160.00	July 11	C79	1000.00
" 1	917"	1058	3.00	Aug. 10	"86	1000.00
" 17	971"	1088	1.75	Sept. 14	J18	300.00
" 18	974"	1091	6.65	Sept. 19	"84	500.00
" 21	986"	1102	2.75	29	J19	1.50
" 22	988"	1105	1.50	Cr. Memo	J19	5000.00
" 27	997"	1113	9.50	29	C85	824.94
" 29	10E	1120	1.50	14	J23	100.00
" 14	800D	1125	8724.94			
Oct. 1	F.G.	894	2.50	Nov. 19	C88	187.65

(Testimony of O. M. Grimm.)

Mr. Olds: Q. Now, Mr. Grimm, what is the balance due there by the City of Paris Cleaning and Dyeing Works to the West Coast Laundry Machinery Company at this time?

Mr. Picard: I object to that upon the ground that it calls for the conclusion of the witness.

Mr. Olds: It does not.

Mr. Picard: It seeks to contradict the written instrument offered in evidence.

The Referee: The objection may be sustained.

Mr. Olds: Q. Mr. Grimm, do the ledger sheets—you say you want to explain the entry?

The Witness: A. Yes. It will be explained in the balance in the lower—

Q. Will you kindly explain that?

Mr. Picard: I object to that on the ground that it attempts to contradict the written ledger sheets.

The Referee: Sustained.

Mr. Olds. Q. Mr. Grimm, is it not a fact that you have [12] changed certain items on the ledger sheets for income tax purposes and it does not show the exact balance due to you?

The Witness: A. That is correct.

Mr. Picard: Just a minute. I ask that that be stricken out.

The Referee: It may go out.

Mr. Picard: I object on the ground that it seeks to contradict the ledger sheets; it also seeks to show a crime against the United States Government.

Mr. Olds: He has a right to do that for income tax purposes.

(Testimony of O. M. Grimm.)

The Referee: If he does it for income tax purposes, he does it for all purposes. You cannot blow hot and cold.

Mr. Olds: For income tax purposes, he has a right to make the changes as have been made.

The Referee: If he makes them, he will stand by them.

Mr. Olds: Q. I ask you what payments have been made by Mr. Blanquie?

Mr. Picard: I object to that on the ground that the ledger sheets are the best evidence of their own contents, the best evidence of payments made.

The Referee: Objection sustained.

Mr. Olds: Q. Who keeps these books, Mr. Grimm?

The Witness: A. I have an assistant; Mr. Ducasse, and Mr. Smith in the office.

Q. By whom were these entries made on the ledger sheets?

A. Well, I suppose part are mine. Do you want me to explain one book entry, how that was?

Q. Yes?

Mr. Picard: I object to anything except answers to exact [13] questions.

The Referee: Make an answer to that question: Who makes the entries?

Mr. Olds: Q. Who makes the entries?

The Witness: A. My assistant, Mr. Smith and Mr. Ducasse.

Q. Under your direction and control?

(Testimony of O. M. Grimm.)

A. Under my direction and control.

Q. Mr. Ducasse is the proprietor of the West Coast Laundry Machinery Company?

A. Yes.

Q. I show you a ledger sheet. Kindly explain the entries on it.

Mr. Picard: I object. It needs no explanation. It is all plain English and they speak for themselves, nothing ambiguous or requiring an explanation.

The Referee: Objection sustained.

Mr. Olds: If the Court please, I would like to continue the matter. I would like to produce the bookkeeper and Mr. Ducasse.

The Referee: What are you going to prove by the bookkeeper?

Mr. Olds: I am going to prove that the correct balance as shown by the ledger sheets is the sum referred to in the petition in reclamation, \$1,900.

The Referee: I won't grant the continuance if that is what you are going to prove. The books are the best evidence.

Mr. Olds: I want to assure Your Honor that the books are not the best evidence. We have a right to explain the entries in the books.

The Referee: You have not a right to explain entries that are in a book unless they are ambiguous.

Mr. Olds: I can show they are ambiguous, if the Court please. [14] I can also show why the entries were made.

(Testimony of O. M. Grimm.)

The Referee: You told me they were made for income tax purposes. They are going to stand for all purposes.

Mr. Olds: I would like the opportunity, if the Court please, to explain these ledger sheets and I would like to show Your Honor that the books of account are not the best evidence, that they are merely the exception to the hearsay rule. If a man knows a thing of his own knowledge that is better evidence than the books.

Mr. Picard: They are written admissions.

Mr. Olds: I ask the continuance to show that.

The Referee: The ruling will stand. You are going to proceed today on it.

Mr. Olds: All right. I will excuse you.

(Witness excused).

ADRIEN BLANQUIE,

Called for the Petitioner,

Sworn.

Mr. Olds: Q. Mr. Blanquie, you are one of the owners of the City of Paris Cleaning and Dyeing Works, are you not? A. Yes.

Q. And you purchased certain machinery from the West Coast Laundry Machinery Company, did you not? A. Yes, sir.

Q. You paid a certain amount on account, did you not? A. Yes.

Q. When did you make the last payment to them, do you know? A. I don't remember.

(Testimony of Adrien Blanquie.)

Q. You don't remember?

A. No, not when the last payment was made.

Q. Do you know how much the balance is that you owe them now under the contract introduced in evidence? [15]

A. I don't know the exact balance. I know just about.

Q. About how much?

Mr. Picard: I object to the witness's guess. He has kept books. Those matters are supposed to be in books and they can produce those if they can find them.

Mr. Olds: Q. How much do you owe Mr. Ducasse?

Mr. Picard: Objected to on the ground that it calls for the conclusion of the witness after the witness states he does not know.

The Referee: The objection is sustained.

Mr. Olds: If the Court please, I am going to ask a continuance of this case.

The Referee: I put this over specially for you today so you could be here for today.

Mr. Olds: I would like to convince you of the exact balance and that we are not estopped by this ledger to explain entries in the ledger.

The Referee: You are not going to explain by telling me you changed them for income tax purposes.

Mr. Olds: What do the books of Mr. Blanquie show?

(Testimony of Adrien Blanquie.)

Mr. Picard: Everything is removed since 1932, so the ledgers and the pages are out. Everything is removed.

Mr. Olds: I would like a reasonable continuance to argue this matter.

The Referee: It won't do any good.

Mr. Olds: I would like to prove the balance due is the sum of \$2200.

The Referee: I won't do it. If you have the books here, you will prove it by your own books. Your statement that they were changed for income tax purposes won't help one bit. They [16] are going to stand for all purposes.

Mr. Olds: If the Court please, they have a right to charge off.

The Referee: Yes, and when they charge them off they are charged off forever.

Mr. Olds: No, when it comes back——

The Referee: It is in this Court. I have held it time and again and I am not going to reverse myself.

Mr. Olds: But when it comes back——

The Referee: I don't care. When it is charged off, it is off for all purposes.

Mr. Olds: Unless it is charged again and they are on again.

The Referee: There is too much of this business of robbing Peter to pay Paul around here anyway.

Mr. Olds: I would like the opportunity to present the law to you.

(Testimony of Adrien Blanquie.)

The Referee: There is no more law to be presented. It is going to be decided today.

Mr. Olds: I can hardly go to the office and dig up the law on it today.

The Referee: You should be prepared. I am prepared to rule right now.

Mr. Olds: I am prepared to go ahead. I did not know there was any explanation of the ledger sheets.

The Referee: That is not a good preparation of your case. It is your fault, not mine.

Mr. Olds: I would like to be heard in this matter and I ask for a continuance.

The Referee: It will be denied on your own explanation. If you don't come into Court with your case prepared—— [17]

Mr. Olds: The case is prepared as far as I can prepare it. Your Honor forbids my going into the question of the ledger sheets.

The Referee: Because the ledger sheets speak for themselves.

Mr. Olds: That is the point I would like to argue.

The Referee: It won't do any good to argue something I could see for myself.

Mr. Olds: I would like to argue the law that the ledger sheet is not conclusive evidence.

If Your Honor please, if this were a suit on an account stated, the account would be conclusive, which I think I can prove.

The Referee: With your own explanation made here, that you changed them for income tax purposes, they are going to stand for income tax purposes and they are going to stand on this petition in reclamation and for all other purposes in this.

Mr. Olds: The ruling of the Income Tax Department is that you have a right to charge off and when collected you have a right to charge again.

The Referee: I am not ruling on the Income Tax Rules at all. I am telling you that what the books show is what we are going to stand on. You put the books in yourself and you are not going to impeach your own proof.

Mr. Olds: I am not trying to impeach my own proof. I am trying to show that the books say.

The Referee: Anybody who can read a book can tell that.

Mr. Olds: I don't know what it says.

Mr. Picard: \$400 due.

Mr. Olds: It does not say anything of the kind.

The Referee: Whatever it says there, that is what the amount [18] will be.

Mr. Connors: \$427.57, July 31, 1938.

Mr. Olds: Will you get off the witness stand, Mr. Blanquie.

(Witness excused).

Mr. Olds: Mr. Grimm, will you take the witness stand?

O. M. GRIMM,

Recalled.

Mr. Olds: Q. When was the last payment made by Mr. Blanquie, the City of Paris Cleaning and Dyeing Works?

Mr. Picard: Objected to as not the best evidence on the ground that the books are the best evidence.

The Referee: Objection sustained.

Mr. Olds: Q. According to the books, when was the last payment made?

Mr. Picard: Objected to on the ground that the books are the best evidence of their contents.

Mr. Olds: I would like to find out myself.

Mr. Picard: Look at them and see.

Mr. Olds: Q. When was the last payment made? The books do not show that.

Mr. Picard: Plainly shows on the books, and the books are the best evidence.

The Referee: That is the ruling.

Mr. Olds: Q. July 31, \$6.82?

The Witness: A. July 31, \$6.82. That is correct.

Q. When was the last payment made on principal, according to the ledger sheet?

Mr. Picard: Objected to on the ground that the books are the best evidence.

Mr. Olds: I would like the total from it myself.

Mr. Picard: Look at the books and see. [19]

Mr. Olds: I cannot make any sense out of it.

The Referee: I can.

Mr. Picard: We all can except you apparently.

Mr. Olds: I imagine the payment made, as far as I can tell, is interest in July.

(Testimony of O. M. Grimm.)

The Referee: That is for the Court to determine.

Mr. Olds: Q. Mr. Grimm, at that time he is in default under the contract, at that time, is he not?

The Witness: A. Yes.

Mr. Picard: Objected to on the ground that it calls for the conclusion of the witness.

The Referee: The answer may go out. The objection is sustained.

Mr. Olds: That is all.

Mr. Picard: No questions.



Mr. Olds: Have you the card that shows he is in default? I would like Your Honor to permit me instead of showing the balance as shown by the ledger, to show that it is the sum of \$2200.

The Referee: You are not going to impeach your own testimony.

Mr. Olds: I am not trying to impeach my own testimony.

The Referee: When the ledger sheet shows \$427 and you are trying to show some \$2000, I don't know what it is but impeachment.

Mr. Olds: I am trying to show why the ledger was kept that way.

The Referee: It was kept that way for income tax purposes and it is going to be for all purposes.

Mr. Olds: And it shows he was in default under the contract many, many months, and we are entitled to the reclamation of the [20] machinery.

Mr. Connors: If the Court please, the trustee

desires a ruling on the petition in reclamation be deferred in order to expedite the notice to sell machinery and pay the West Coast Laundry Machinery Company the \$427.52.

The Referee: What is the value of the property?

Mr. Connors: The equipment has been appraised. This also includes property subject to chattel mortgage.

The Referee: What is the appraisalment?

Mr. Connors: I don't know what it shows as a whole.

Mr. Picard: I think about \$5000 for everything together.

The Referee: Is there any way by which you can determine?

Mr. Olds: I would still like the opportunity to show Your Honor that you are erroneous on the ruling.

The Referee: You can still take it up on review.

Mr. Olds: It would be much easier at this time.

The Referee: Your own statements put you out of Court at this time. I guess you have to take it up on review.

Mr. Olds: That is what I have to do; maybe I can reverse you. I am just as positive as Your Honor that I am right.

The Referee: You will have a chance in the upper court on review.

Mr. Olds: All right.

Mr. Connors: May I ask then that an order be made and entered to the effect that the balance due

on the conditional sales contract is the amount shown on the ledgers kept by the petitioner and that an opportunity be given to the trustee to sell the property?

The Referee: How many days?

Mr. Connors: I suggest two weeks. [21]

Mr. Olds: I would like to state at this time that I offer to prove that there is due to the West Coast Laundry Machinery Company the sum of \$2,196.74 and that when this ledger is properly read it will so show.

The Referee: Your offer may be denied on the ground that your offer, if you were able to bring the proof in, would be an impeachment of your own testimony put in at your own request.

Mr. Olds: In other words, Your Honor rules I cannot go behind this ledger sheet?

The Referee: That is exactly what I rule. The amount is fixed as \$427.57. The order is that the trustee may have to and including the 28th day of September within which to sell this property and pay the amount to the reclamation petitioner or that the petition in reclamation may be granted.

Mr. Olds: Would that give me an opportunity to review the matter before the property is sold? If the Court please, I have ten days to file a petition for review, have I not?

The Referee: That is something you will have to thresh out with the trustee. The order, so far as I am concerned, is now final.

[Endorsed]: Filed Feb. 14, 1939. [22]

[Title of District Court and Cause.]

“ORDER ON PETITION FOR RECLAMATION
AND FIXING AMOUNT DUE PETITIONER

“The verified petition for reclamation under the contract of conditional sale of M. Ducasse, doing business as West Coast Laundry Machinery Co., which said petition was duly filed herein, coming on regularly for hearing on the 14th day of September, 1938, and it appearing and the Court finding that said contract of conditional sale of said petitioner is a valid and subsisting contract of conditional sale, and it further appearing to the Court and the Court finding that there is not due to said M. Ducasse the sum claimed in said petition, to-wit: the sum of \$2273.83, or any other sum, save and except the sum of \$427.57,

“It Is Hereby Ordered, Adjudged, and Decreed that there is due to the petitioner in reclamation the sum of \$427.57, and no more, and

“It Is Further Hereby Ordered, Adjudged, and Decreed that the trustee in bankruptcy herein may have to and including the 28th day of September, 1938, within which to sell the property covered by said petition in reclamation and pay to said petitioner in reclamation said sum of \$427.57, and if said trustee fails so to do that said petition in reclamation be granted.

“Dated: September 14, 1938.

“BURTON J. WYMAN,

“Referee in Bankruptcy”.

[Endorsed]: Filed Sept. 22, 1938. [26]

[Title of District Court and Cause.]

PETITION TO REVIEW REFEREE'S ORDER

To Burton J. Wyman, Esq., Referee in Bankruptcy:

“Your petitioner respectfully shows:

“That he did heretofore file a petition for reclamation herein under a contract of conditional sales entered into by him with the above named bankrupt; that in the course of the proceedings herein on the 14th day of September, 1938, an order, a copy of which is hereto annexed and marked Exhibit ‘A’, was made and entered herein.

“That such order was and is erroneous in that it fixes the sum due petitioner under said contract of conditional sale at \$427.57 and not at \$2273.83, the amount claimed by petitioner.

“That such order herein is contrary to law; that in the course of said proceedings held on said 14th day of September, 1938, petitioner sought to introduce testimony to explain the figures and entries and the import of the figures and entries appearing on the ledger sheets of petitioner introduced in evidence and the circumstances under which said entries were made and the matter to which said entries related, and to show that the said ledger sheets in relation to said conditional sales contract would show by said explanation and testimony that there was due to petitioner the sum of \$2273.83 and not the sum of \$427.57.

“That said Burton J. Wyman, Referee in Bankruptcy, erroneously refused to allow petitioner to

introduce such or any oral testimony affecting or in any way pertaining to said items appearing in said [27] ledger sheets and for the purpose of showing that the sum of \$2273.83, and not the sum of \$427.57, was due, owing and unpaid by the bankrupt to petitioner on said conditional contract of sale.

“Wherefore, your petitioner, feeling aggrieved because of such order, prays that the same may be reviewed as provided in the Bankruptcy Act of 1898 and all the amendments thereto and General Order XXVII.

“Dated: September 23rd, 1938.

“M. DUCASSE,
“Petitioner.”

“STANLEY JACKSON

“WERNER OLDS

“BERTRAND A. BLEY

Attorneys for Petitioner.”

[Endorsed]: Filed Sept. 23, 1938. [28]

(Here follows Exhibit “A” which is a copy of the order on petition for reclamation and fixing amount due petitioner signed by the Referee).
[Page 38 of this printed record.] [29]

District Court of the United States
Northern District of California
Southern Division

At A Stated Term of the Southern Division of the United States District Court for the Northern District of California, held at the Court Room thereof, in the City and County of San Francisco, on Wednesday, the 19th day of April, in the year of our Lord one thousand nine hundred and thirty-nine.

Present: The Honorable Harold Louderback,
D. J.

30513-L

In the Matter of
Adrien Blanquie,
In Bankruptcy

As prayed for in the Petitioner's Petition for Review it is ordered that this case be and is hereby re-referred to the Referee in Bankruptcy for further hearing and for determination of the application of M. Ducasse (doing business as West Coast Lumber Co.) for amount due.

United States of America,
Northern District of California—ss.

Certified Copy

I, Walter B. Maling, Clerk of the United States District Court in and for the Northern District of California, do hereby certify that the annexed and foregoing is a true and full copy of the original Order of adjudication, filed July 29, 1938; Petition to reclaim property sold under conditional sales contract, filed August 20, 1938; Testimony at hearing on petition in reclamation, filed February 14, 1939; Exhibits "A", "B" and "C", Order of Referee on petition filed September 22, 1938; Petition to review Referee's order, filed September 23, 1938, Order of Judge Louderback re-referring case to Referee entered April 19, 1939 In the Matter of Adrien Blanquie, in Bankruptcy No. 30513-L. now remaining among the records of the said Court in my office.

In Testimony Whereof, I have hereunto subscribed my name and affixed the seal of the aforesaid Court at San Francisco, Calif. this 24th day of May, A. D. 1939.

[Seal]

WALTER B. MALING,

Clerk.

By J. P. WELSH,

Deputy Clerk.

[Title of District Court and Cause.]

ORDER APPOINTING TRUSTEE

In said District on the 22d day of August, 1938 at the hour of two o'clock P. M., before the Honorable Burton J. Wyman, Referee in Bankruptcy, this being the day appointed for the first meeting of creditors of said bankrupt, and due notice having been regularly given thereof, and the majority of the claims of creditors in number and amount having been voted for John O. England as trustee, he was thereupon elected trustee of said bankruptcy estate.

It Is Therefore Ordered, that the appointment of said trustee be, and the same is hereby approved.

Dated: August 23, 1938.

BURTON J. WYMAN,
Referee in Bankruptcy.

I hereby certify that the above and foregoing is a full, true and correct copy of Order now on file and of record in this office.

Dated 5/18/39.

BURTON J. WYMAN,
Referee in Bankruptcy. [31]

[Endorsed]: No. 9194. In the United States Circuit Court of Appeals for the Ninth District. In the Matter of Adrien Blanquie, doing business as City of Paris Dyeing & Cleaning Works, Bankrupt. John O. England, Trustee in Bankruptcy of

the Estate of Adrien Blanquie, doing business as City of Paris Dyeing & Cleaning Works, Appellant, vs. M. Ducasse, Appellee. Transcript of Record Upon Appeal from the District Court of the United States for the Northern District of California Southern Division.

Filed May 26, 1939.

PAUL P. O'BRIEN,
Clerk.

[Title of District Court and Cause.]

NOTICE OF APPEAL

To the Honorable Harold Louderback, Judge of the United States District Court, and to Werner V. Olds, B. A. Bley and S. Jackson, Attorneys for M. Ducasse, Reclamation Petitioner;

You, and each of you, will please take notice that John O. England, Trustee of the estate of the above named bankrupt, hereby appeals to the United States Circuit Court of Appeals for the Ninth Circuit from the judgment herein made and entered in the District Court of the United States, Northern District of California, Southern Division, on the 19th day of April, 1939, in favor of said Reclamation Petitioner and against said Trustee in Bankruptcy, and from the whole of said judgment.

Dated: May 17, 1939.

GRANT H. WREN.

In The United States Circuit Court of Appeals for
The Ninth District

No. 9194

In the Matter of

ADRIEN BLANQUIE, doing business as CITY
OF PARIS DYEING & CLEANING
WORKS,

Bankrupt.



JOHN O. ENGLAND, Trustee in Bankruptcy of
the Estate of ADRIEN BLANQUIE, doing
business as CITY OF PARIS DYEING &
CLEANING WORKS,

Appellant.

vs.

M. DUCASSE,

Appellee.

STATEMENT OF POINT UPON WHICH
APPELLANT INTENDS TO RELY
UPON APPEAL

To Paul P. O'Brien, Clerk of the Above Entitled
Court:

In compliance with Rule XIX, Subdivision VI of
the Rules of the United States Circuit Court of
Appeals for the Ninth Circuit, effective Decem-
ber 19, 1938, appellant files this Statement of Point
upon which he intends to rely on the appeal, to-wit:
District Judge Harold Louderback, by his Order

dated April 19, 1939, re-referring the matter to Bankruptcy Referee Wyman, erred in failing to affirm the ruling of Bankruptcy Referee refusing to permit the introduction of oral testimony by appellee for the purpose of contradicting his original entries in his book of account.

Appellant specifies the facts in support of the above point as follows:

Appellee petitioned Bankruptcy Referee Wyman to reclaim personal property sold under a Conditional Contract of Sale to the bankrupt, alleging a balance of \$2273.83 owing and unpaid. At the hearing of said Reclamation Petition ledger sheets of the appellee were introduced in evidence showing a balance of \$427.57 only owing and unpaid. The objections of the appellant Trustee in Bankruptcy to the attempt of the appellee to explain and contradict the entries in his original book of account by oral testimony were sustained by Bankruptcy Referee Wyman. Appellee filed his Petition to Review the ruling of the Referee in Bankruptcy sustaining the objections of the Trustee to the introduction of oral testimony, and District Judge Louderback made and entered an Order re-referring the matter to Bankruptcy Referee Wyman for a further hearing to determine the amount due appellee.

GRANT H. WREN,

Attorney for Appellant Trustee in Bankruptcy.

Receipt of a copy of the above statement is admitted this 11th day of July, 1939.

STANLEY JACKSON

WERNER OLDS

BERTRAND A. BLEY,

Attorneys for Appellee.

[Endorsed]: Filed July 12, 1939. Paul P. O'Brien, Clerk.

[Title of Circuit Court of Appeals and Cause.]

DESIGNATION OF PARTS OF RECORD
WHICH APPELLANT THINKS NECESSARY FOR THE CONSIDERATION OF
THE POINT UPON WHICH APPELLANT
INTENDS TO RELY UPON APPEAL

To Paul P. O'Brien, Clerk of the above entitled Court:

In compliance with Subdivision VI of Rule XIX of this Court effective December 19, 1938, the appellant designates the following portion of the record necessary for consideration of the Point specified upon which he intends to rely upon his appeal, to-wit:

Order Adjudging Adrien Blanquie a Bankrupt;
Petition to Reclaim Property sold under Conditional Sales Contract;

Entire Transcript of Testimony before Bankruptcy Referee Wyman on Petition to Reclaim;

Claimant's Exhibits "A", "B" and "C" introduced in evidence at hearing, consisting of Ledger sheets;

Order of Bankruptcy Referee Wyman on Petition to Reclaim;

Petition to Review Bankruptcy Referee's Order;

Order of District Judge Louderback re-referring Matter to Referee Wyman;

Notice of Appeal.

GRANT H. WREN,

Attorney for Appellant

Trustee.

Receipt of a copy of the above Designation of parts of record admitted this 11th day of July 1939.

STANLEY JACKSON

WERNER OLDS

BERTRAM A. BLEY,

Attorneys for Appellee.

[Endorsed]: Filed July 12, 1939. Paul P. O'Brien.

